

Surface Mining Reclamation and Enforcement, Interior

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(1) Provide advice, assistance, and counseling to the Heads of all State Regulatory Authorities concerning implementation of these regulations;

(2) Promptly review the statement of employment and financial interests and supplements, if any, filed by each Head of the State Regulatory Authority. The Director will review the statement to determine if the Head of the State Regulatory Authority has correctly identified those listed employment and financial interests which constitute a direct or indirect financial interest in an underground or surface coal mining operation;

(3) Recommend to the State Attorney General, or such other State official designated by State law or the Governor of the State, the remedial action to be ordered or initiated, recommend to the Secretary that action be taken to impose the penalties of the Act, or recommend to the Secretary that other appropriate action be taken with respect to reimbursements, grants, or State programs;

(4) Certify on each statement filed by the Head of the State Regulatory Authority that the State has completed the review of the statement, that prohibited financial interests have been resolved, and that no other prohibited interests have been identified from the statement;

(5) Monitor the program by using reports requested from Heads of State Regulatory Authorities and by using periodic audits performed by the Office of Inspector General, U.S. Department of the Interior;

(6) Prepare for the Secretary of the Interior a consolidated report to the Congress as part of the annual report submitted under section 706 of the Act, on the actions taken and not taken during the preceding calendar year under section 517(g);

(7) Designate if so desired other qualified Office of Surface Mining Reclamation and Enforcement employees as assistant counselors to assist with the operational duties associated with filing and reviewing the statements from the Heads of each State Regulatory Authority;

(8) Furnish a blank statement by December 15 of each year, to the Head of each State Regulatory Authority; and

(9) Inform annually, the head of each State Regulatory Authority of the requirement to file his or her statement with the Director and supply the name, address, and telephone number of the person whom they may contact for advice and counseling.

(c) State Regulatory Authority employees performing any duties or functions under the Act shall:

(1) Have no direct or indirect financial interest in coal mining operations;

(2) File a fully completed statement of employment and financial interest 120 days after these regulations become effective or upon entrance to duty, and annually thereafter on the specified filing date; and

(3) Comply with directives issued by persons responsible for approving each statement and comply with directives issued by those persons responsible for ordering remedial action.

(d) Members of advisory boards and commissions established in accordance with State laws or regulations to represent multiple interests, who perform a function or duty under the Act, shall recuse themselves from proceedings which may affect their direct or indirect financial interests.

[42 FR 56060, Oct. 20, 1977, as amended at 51 FR 37122, Oct. 17, 1986; 56 FR 46987, Sept. 17, 1991]

§ 705.5 Definitions.

Act. Means the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87.

Coal mining operation. Means the business of developing, producing, preparing or loading bituminous coal, sub-bituminous coal, anthracite, or lignite, or of reclaiming the areas upon which such activities occur.

Direct financial interest. Means ownership or part ownership by an employee of lands, stocks, bonds, debentures, warrants, partnership shares, or other holdings and also means any other arrangement where the employee may benefit from his or her holding in or salary from coal mining operations. Direct financial interests include employment, pensions, creditor, real property and other financial relationships.

Director. Means the Director or Acting Director of the Office of Surface Mining Reclamation and Enforcement

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within the U.S. Department of the Interior.

Employee. Means (a) any person employed by the State Regulatory Authority who performs any function or duty under the Act, and (b) advisory board or commission members and consultants who perform any function or duty under the Act, if they perform decisionmaking functions for the State Regulatory Authority under the authority of State law or regulations. However, members of advisory boards or commissions established in accordance with State law or regulations to represent multiple interests are not considered to be employees. State officials may through State law or regulations expand this definition to meet their program needs.

Indirect financial interest. Means the same financial relationships as for direct ownership, but where the employee reaps the benefits of such interests, including interests held by his or her spouse, minor child and other relatives, including in-laws, residing in the employee's home. The employee will not be deemed to have an indirect financial interest if there is no relationship between the employee's functions or duties and the coal mining operation in which the spouse, minor children or other resident relatives hold a financial interest.

Office. Means the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

Performing any function or duty under this Act. Means those decisions or actions, which if performed or not performed by an employee, affect the programs under the Act.

Prohibited financial interest. Means any direct or indirect financial interest in any coal mining operation.

Secretary. Means the Secretary of the Interior.

State Regulatory Authority. Means that office in each State which has primary responsibility at the State level for administering this Act. Until an office is established under the provisions of section 503 or section 504 of the Act, this term shall refer to those existing State offices having primary jurisdiction for regulating, enforcing, and inspecting any surface coal mining and reclamation operations within the

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State during the interim period between the effective date of the Act and the establishment of the State Regulatory Authority under section 503 or section 504.

§ 705.6 Penalties.

(a) Criminal penalties are imposed by section 517(g) of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87. Section 517(g) prohibits each employee of the State Regulatory Authority who performs any function or duty under the Act from having a direct or indirect financial interest in any underground or surface coal mining operation. The Act provides that whoever knowingly violates the provisions of section 517(g) shall, upon conviction, be punished by a fine of not more than \$2,500, or by imprisonment of not more than one year, or by both.

(b) Regulatory penalties are imposed by this part. The provisions in section 517(g) of the Act make compliance with the financial interest requirements a condition of employment for employees of the State Regulatory Authority who perform any functions or duties under the Act. Accordingly, an employee who fails to file the required statement will be considered in violation of the intended employment provisions of section 517(g) and will be subject to removal from his or her position.

§ 705.10 Information collection.

The collections of information contained in §§ 705.11 and 705.17 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029-0067. The information is being collected on OSM Form 23 and will be used to meet the requirements of section 517(g) of the Surface Mining Control and Reclamation Act of 1977, which provides that no employee of the State regulatory authority shall have direct or indirect financial interests in any underground or surface coal mining operation. This information will be used by officials of the state regulatory authority to determine whether each State employee complies with the financial interest provisions of section 517(g). The obligation to respond is mandatory